

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION
NO. 04-11333-MLW

MARIAN SOCACIU,
Plaintiff,

VS.

M/S RIVER ADAGIO and
GRAND CIRCLE TRAVEL, INC.
Defendants.

DEFENDANT, GRAND CIRCLE TRAVEL, INC.'S
ANSWER TO PLAINTIFF'S COMPLAINT

Now come the defendant, Grand Circle Travel, Inc., in the above entitled action, by and through its undersigned counsel, Clinton & Muzyka, P.C., and submits its Answer to Plaintiff's Complaint as follows:

THE PARTIES

1. The defendant denies knowledge or information sufficient to form a belief as to the truth of the allegations concerning the residence of plaintiff, Marian Socaciu. The defendant denies the remainder of the allegations contained in Paragraph 1.
2. The defendant admits that Grand Circle Travel, Inc. is a duly organized corporation existing under the laws of Massachusetts. The defendant

denies the remainder of the allegations contained in Paragraph 2.

JURISDICTION

The allegations concerning jurisdiction are statements of law to which no answer is required of this defendant. To the extent an answer is required, defendant denies same.

FACTUAL ALLEGATIONS

3. The defendant admits that the plaintiff was a program director on the M/S RIVER ADAGIO on May 27, 2003. The defendant denies the remainder of the allegations contained in Paragraph 3.

COUNT I
(Jones Act)

4. The defendant reiterates and reaffirms its responses to the allegations set forth in Paragraphs 1 through 3, inclusive, and incorporates same as though fully set forth herein.

5. The defendant denies the allegations contained in Paragraph 5, including subparts a) through e) inclusive.

6. The defendant denies the allegations contained in Paragraph 6.

7. The allegations contained in Paragraph 7 are statements of law to which no answer is required of this defendant. To the extent an answer is required, the defendant denies same.

WHEREFORE the defendant prays that this Honorable Court dismiss Count I of Plaintiff's Complaint together with costs and reasonable attorneys fees.

COUNT II
GENERAL MARITIME LAW
(Unseaworthiness)

8. The defendant reiterates and reaffirms its responses to the allegations set forth in Paragraphs 1 through 7, inclusive, and incorporates same as though fully set forth herein.

9. The defendant denies the allegations contained in Paragraph 9.

10. The defendant denies the allegations contained in Paragraph 10.

11. The allegations contained in Paragraph 11 are statements of law to which no answer is required of this defendant. To the extent an answer is required, the defendant denies same.

WHEREFORE the defendant prays that this Honorable Court dismiss Count II of Plaintiff's Complaint together with costs and reasonable attorneys fees.

COUNT III
(Maintenance and Cure)

12. The defendant reiterates and reaffirms its responses to the allegations set forth in Paragraphs 1 through 11, inclusive, and incorporates same as though fully set forth herein.
13. The defendant denies the allegations contained in Paragraph 13.

WHEREFORE the defendant prays that this Honorable Court dismiss Count III of Plaintiff's Complaint together with costs and reasonable attorneys fees.

COUNT IV
GENERAL MARITIME LAW
(Negligence)

14. The defendant reiterates and reaffirms its responses to the allegations set forth in Paragraphs 1 through 13, inclusive, and incorporates same as though fully set forth herein.

15. The defendant denies the allegations contained in Paragraph 13.

16. The defendant denies the allegations contained in Paragraph 13.

17. The allegations contained in Paragraph 17 are statements of law to which no answer is required of this defendant. To the extent an answer is required, the defendant denies same.

WHEREFORE the defendant prays that this Honorable Court dismiss Count IV of Plaintiff's Complaint together with costs and reasonable attorneys fees.

AFFIRMATIVE DEFENSES

The defendant incorporates the following Affirmative Defenses into its Answer as follows:

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states the plaintiff's Complaint fails to state a claim upon which relief can be granted.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that this Court lacks subject matter jurisdiction to entertain this action.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that the plaintiff is not a

Jones Act Seaman and therefore not entitled to maintenance and cure.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that if the plaintiff was injured as alleged, which is specifically denied, said injuries resulted in whole or in part from his own negligence and failure to exercise the degree of care and skill reasonably required of a surveyor and not due to any negligence or fault on the part of the defendant or any person for whom the defendant is responsible.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant says that if the plaintiff sustained injury as alleged, which is specifically denied, those injuries were the result of an Act of God for which the defendant is not legally responsible.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that if the plaintiff was injured as alleged, which is specifically denied, said injuries resulted in whole or in part from a condition not created by the defendant, its employees, servants and/or agents.

AND FURTHER ANSWERING, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that if the plaintiff was injured as alleged, which is specifically denied, said

injuries resulted in whole or in part from the acts and/or omissions of a person or persons over whom the defendant had no control and for whom the defendant was and is not responsible.

AND FURTHER ANSWERING IN THE ALTERNATIVE, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that if the plaintiff was injured as alleged, which is specifically denied, such injury was without fault, knowledge or privity of the defendant; and that the damaged claimed herein exceeds the value of the vessel, including its pending cargo; and the defendant herewith claims benefit of any and all laws and statutes of the United States of America, or and concerning limitation of liability of the defendant, 46 U.S.C.S. App 183(b).

AND FURTHER ANSWERING IN THE ALTERNATIVE, AND AS A COMPLETE AND SEPARATE DEFENSE, the defendant states that this Honorable Court is an improper forum and this matter should be dismissed due to forum non-conveniens.

WHEREFORE, the defendant prays that this Honorable Court dismiss Plaintiff's Complaint together with costs and reasonable attorney's fees.

RESPECTFULLY SUBMITTED

By their attorneys
CLINTON & MUZYKA, P.C.

"/s/Robert E. Collins"

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